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HOUSE BILL 474

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR REDUCTIONS IN CLASS SIZES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-10A-20 NMSA 1978 (being Laws 1986, Chapter 33, Section 3, as amended) is amended to read:

"22-10A-20. STAFFING PATTERNS--CLASS LOAD--TEACHING LOAD.--

A. The individual class load for ~~[elementary school]~~ teachers in kindergarten shall not exceed ~~[twenty]~~ fifteen students ~~[for kindergarten]~~; provided that any teacher in kindergarten with a class load of ten to fifteen ~~[to twenty]~~ students shall be entitled to the full-time assistance of an educational assistant.

B. The ~~[average]~~ individual class load in grades

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1 one through five for elementary school teachers at an  
2 individual school shall not exceed [~~twenty-two~~] fifteen  
3 students [~~when averaged among grades one, two and three~~];  
4 provided that any teacher in grade one with a class load of  
5 [~~twenty-one~~] twelve or more shall be entitled to the full-time  
6 assistance of an educational assistant.

7 ~~[G. The average class load for an elementary school~~  
8 ~~teacher at an individual school shall not exceed twenty-four~~  
9 ~~students when averaged among grades four, five and six.~~

10 ~~D. The daily teaching load per teacher for grades~~  
11 ~~seven through twelve shall not exceed one hundred sixty~~  
12 ~~students, except the daily teaching load for teachers of~~  
13 ~~required English courses in grades seven and eight shall not~~  
14 ~~exceed one hundred thirty-five with a maximum of twenty-seven~~  
15 ~~students per class and the daily teaching load for teachers of~~  
16 ~~required English courses in grades nine through twelve shall~~  
17 ~~not exceed one hundred fifty students with a maximum of thirty~~  
18 ~~students per class.]~~

19 C. The individual class load for teachers in grades  
20 six through eight shall not exceed eighteen students with a  
21 maximum teaching load of ninety students. The individual class  
22 load for teachers in grades nine through twelve shall not  
23 exceed twenty-four students with a maximum teaching load of one  
24 hundred twenty students.

25 ~~[E.]~~ D. Students receiving special education

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1 services integrated into a regular classroom for any part of  
2 the day shall be counted in the calculation of the individual  
3 class load [~~averages~~]. Students receiving special education  
4 services not integrated into the regular classroom shall not be  
5 counted in the calculation of the individual class load  
6 [~~averages~~]. Only classroom teachers charged with  
7 responsibility for the regular classroom instructional program  
8 shall be counted in determining [~~average~~] maximum class loads.  
9 [~~In elementary schools offering only one grade level, average~~  
10 ~~class loads may be calculated by averaging appropriate grade~~  
11 ~~levels between schools in the school district.~~

12 F.] E. Class load limits provided for in this  
13 section do not apply to band or music classes or athletic  
14 electives.

15 [~~G.~~] F. The [~~state superintendent~~] secretary may  
16 waive the individual school class load requirements established  
17 in this section. Waivers shall be applied for annually, and a  
18 waiver shall not be granted for more than two consecutive  
19 years. Waivers may only be granted if a school district  
20 demonstrates that:

- 21 (1) no portable classrooms are available;
- 22 (2) no other available sources of funding  
23 exist to meet its need for additional classrooms;
- 24 (3) the school district is planning  
25 alternatives to increase building capacity for implementation

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1 within one year; and

2 (4) the parents of all children affected by  
3 the waiver have been notified in writing:

4 (a) of the statutory class load  
5 requirements;

6 (b) [~~that~~] of the school [~~district has~~  
7 ~~made a~~] district's decision to deviate from these class load  
8 requirements; and

9 (c) of the school district plan to  
10 achieve compliance with the class load requirements.

11 [~~H.~~] G. If a waiver is granted pursuant to  
12 Subsection [~~G~~] F of this section to an individual school, the  
13 [~~average~~] individual class load for elementary school teachers  
14 at that school shall not exceed [~~twenty~~] seventeen students in  
15 grade one and shall not exceed [~~twenty-five~~] twenty students  
16 [~~when averaged among~~] in grades two, three, four and five. [~~and~~  
17 ~~six~~].

18 [~~F.~~] H. Each school district shall report to the  
19 department the size and composition of classes subsequent to  
20 the fortieth day and the December 1 count. Failure to meet  
21 class load requirements within two years shall be justification  
22 for the disapproval of the school district's budget by the  
23 [~~state superintendent~~] department.

24 [~~J.~~] I. The department shall report to the  
25 legislative education study committee by November 30 of each

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1 year regarding each school district's ability to meet class  
2 load requirements imposed by law.

3 ~~[K-]~~ J. Notwithstanding the provisions of  
4 Subsection ~~[G]~~ F of this section, the ~~[state board]~~ secretary  
5 may waive the individual class load and teaching load  
6 requirements established in this section upon a demonstration  
7 of a viable alternative curricular plan and a finding by the  
8 ~~[state board]~~ secretary that the plan is in the best interest  
9 of the school district and that, on an annual basis, the plan  
10 has been presented to and is supported by the affected teaching  
11 staff. The department shall evaluate the impact of each  
12 alternative curricular plan annually. Annual reports shall be  
13 made to the legislative education study committee.

14 ~~[L-]~~ K. Teachers shall not be required to perform  
15 noninstructional duties except in emergency situations as  
16 defined by the ~~[state board]~~ department. For purposes of this  
17 subsection, "noninstructional duties" means noon hall duty,  
18 noon ground duty and noon cafeteria duty."

19 Section 2. APPROPRIATION.--One hundred fifty million  
20 dollars (\$150,000,000) is appropriated from the general fund to  
21 the public education department for distribution through the  
22 state equalization guarantee in fiscal year 2010 to support  
23 public school class size reduction. Any unexpended or  
24 unencumbered balance remaining at the end of fiscal year 2010  
25 shall not revert to the general fund.

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